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7 Attorneys for Plaintiff  
8 United States of America

9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11	UNITED STATES OF AMERICA,	)	CASE NO. 2:11-cr-00337-JCM-GWF
12	Plaintiff,	)	
13	v.	)	GOVERNMENT'S MOTION TO DISMISS
14	DAVID AMESBURY,	)	CRIMINAL INFORMATION WITHOUT
15	Defendant.	)	PREJUDICE

16 COMES NOW the United States of America, by and through the undersigned counsel,  
17 and moves to dismiss the Criminal Information without prejudice filed in the above-captioned  
18 case against defendant David Amesbury, pursuant to Rule 48(a) of the Federal Rules of Criminal  
19 Procedure.

20 As grounds for this motion, the government states as follows:

- 21 1. The defendant was charged in a Criminal Information on one count of conspiracy to  
22 commit mail and wire fraud, in violation of Title 18, United States Code, Section 1349, and one  
23 count of conspiracy to commit bank fraud, in violation of Title 18, United States Code, Section  
24 1349.
- 25 2. On October 24, 2011, Defendant Amesbury entered a plea of guilty as to both counts.
- 26 3. A sentencing hearing was scheduled for September 21, 2012 at 10:30am.
- 27 4. On or about March 25, 2012, Defendant Amesbury died. A working copy of a death  
28 certificate is attached.


1           5. Dismissals under Rule 48(a) are generally without prejudice. *See* 3B Fed. Prac.  
2     & Proc. Crim. (3d ed.), Fed. Crim. Rules Handbook FCRP 48 (2011 ed.).

3           6. It is in the best interest of justice to dismiss the Criminal Information filed against  
4     defendant David Amesbury, without prejudice.

5           WHEREFORE, the Government by and through the undersigned counsel, respectfully  
6     requests the dismissal of the Criminal Information filed against defendant David Amesbury,  
7     without prejudice.

8  
9                                 DENIS McINERNEY  
                                  Chief  
                                  Fraud Section, Criminal Division  
                                  U.S. Department of Justice

10  
11     6/5/12

  
                                  CHARLES G. LA BELLA  
                                  Deputy Chief  
                                  MARY ANN McCARTHY  
                                  Trial Attorney

STATE FILE NUMBER		USE BLACK INK ONLY / NO ERASURES, WHITEOUTS OR ALTERATIONS VS-11a (REV 3/06)		LOCAL REGISTRATION NUMBER	
DECEDENT'S PERSONAL DATA	1. NAME OF DECEDENT - FIRST (Given) <b>DAVID</b>		2. MIDDLE <b>CLYDE</b>		3. LAST (Family) <b>AMESBURY</b>
	AKA. ALSO KNOWN AS - Include full AKA (FIRST, MIDDLE, LAST) <b>-</b>		4. DATE OF BIRTH mm/dd/ccyy <b>05/05/1954</b>		5. AGE Yrs. <b>57</b>
	9. BIRTH STATE/FOREIGN COUNTRY <b>OR</b>		10. SOCIAL SECURITY NUMBER <b>562-96-5491</b>		11. EVER IN U.S. ARMED FORCES? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK
	12. MARITAL STATUS/SRDP* (at Time of Death) <b>MARRIED</b>		7. DATE OF DEATH mm/dd/ccyy <b>03/25/2012</b>		8. HOUR (24 Hours) <b>1735 FND</b>
	13. EDUCATION - Highest Level/Degree (see worksheet on back) <b>PROFESSIONAL</b>		14/15. WAS DECEDENT HISPANIC/LATINO(A)/SPANISH? (If yes, see worksheet on back) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		16. DECEDENT'S RACE - Up to 3 races may be listed (see worksheet on back) <b>WHITE</b>
USUAL RESIDENCE	17. USUAL OCCUPATION - Type of work for most of life. DO NOT USE RETIRED <b>LAWYER</b>		18. KIND OF BUSINESS OR INDUSTRY (e.g., grocery store, road construction, employment agency, etc.) <b>LAW</b>		19. YEARS IN OCCUPATION <b>22</b>
	20. DECEDENT'S RESIDENCE (Street and number, or location) <b>9428 GREENHAM CIRCLE</b>				
INFORMANT	21. CITY <b>LAS VEGAS</b>		22. COUNTY/PROVINCE <b>CLARK</b>		23. ZIP CODE <b>89117</b>
	24. YEARS IN COUNTY <b>22</b>		25. STATE/FOREIGN COUNTRY <b>NV</b>		
SPOUSE/SRDP AND PARENT INFORMATION	26. INFORMANT'S NAME, RELATIONSHIP <b>VICTORIA A. VILLEGAS, WIFE</b>		27. INFORMANT'S MAILING ADDRESS (Street and number, or rural route number, city or town, state and zip) <b>9428 GREENHAM CIRCLE, LAS VEGAS, NV 89117</b>		
	28. NAME OF SURVIVING SPOUSE/SRDP* - FIRST <b>VICTORIA</b>		29. MIDDLE <b>ALANO</b>		30. LAST (BIRTH NAME) <b>VILLEGAS</b>
	31. NAME OF FATHER/PARENT - FIRST <b>KENNETH</b>		32. MIDDLE <b>BRUCE</b>		33. LAST <b>AMESBURY</b>
	34. BIRTH STATE <b>MT</b>		35. NAME OF MOTHER/PARENT - FIRST <b>DOROTHEA</b>		36. MIDDLE <b>-</b>
FUNERAL DIRECTOR/LOCAL REGISTRAR	37. LAST (BIRTH NAME) <b>ALSPAUGH</b>		38. BIRTH STATE <b>OR</b>		
	39. DISPOSITION DATE mm/dd/ccyy <b>03/30/2012</b>		40. PLACE OF FINAL DISPOSITION <b>RES. OF TOM AMESBURY 10607 DOLORES DRIVE, GRASS VALLEY, CA 95945</b>		
	41. TYPE OF DISPOSITION(S) <b>CR/RES</b>		42. SIGNATURE OF EMBALMER <b>▶ NOT EMBALMED</b>		43. LICENSE NUMBER <b>-</b>
	44. NAME OF FUNERAL ESTABLISHMENT <b>CHAPEL OF THE ANGELS MORTUARY</b>		45. LICENSE NUMBER <b>FD1588</b>		46. SIGNATURE OF LOCAL REGISTRAR <b>▶ KAREN MILMAN, MD</b>
PLACE OF DEATH	47. DATE mm/dd/ccyy <b>03/29/2012</b>				
	101. PLACE OF DEATH <b>DECEDENT'S BROTHER'S RESIDENCE</b>		102. IF HOSPITAL, SPECIFY ONE <input type="checkbox"/> IP <input type="checkbox"/> ER/OP <input type="checkbox"/> DOA		103. IF OTHER THAN HOSPITAL, SPECIFY ONE <input type="checkbox"/> Hospice <input type="checkbox"/> Nursing Home/LTC <input checked="" type="checkbox"/> Decedent's Home <input type="checkbox"/> Other
	104. COUNTY <b>NEVADA</b>		105. FACILITY ADDRESS OR LOCATION WHERE FOUND (Street and number, or location) <b>10607 DOLORES DRIVE</b>		106. CITY <b>GRASS VALLEY</b>
	107. CAUSE OF DEATH Enter the chain of events --- diseases, injuries, or complications --- that directly caused death. DO NOT enter terminal events such as cardiac arrest, respiratory arrest, or ventricular fibrillation without showing the etiology. DO NOT ABBREVIATE. IMMEDIATE CAUSE (A) <b>PENDING TOXICOLOGY</b> (Final disease or condition resulting in death) → (B) _____ Sequentially, list conditions, if any, leading to cause on Line A. Enter UNDERLYING CAUSE (disease or injury that initiated the events resulting in death) LAST (C) _____ (D) _____		Time Interval Between Onset and Death (AT) <b>UNK</b> (BT) _____ (CT) _____ (DT) _____		108. DEATH REPORTED TO CORONER? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO REFERRAL NUMBER <b>1120-0855</b>
	109. BIOPSY PERFORMED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		110. AUTOPSY PERFORMED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		111. USED IN DETERMINING CAUSE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
PHYSICIAN'S CERTIFICATION	112. OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RESULTING IN THE UNDERLYING CAUSE GIVEN IN 107 <b>UNK</b>				
	113. WAS OPERATION PERFORMED FOR ANY CONDITION IN ITEM 107 OR 112? (If yes, list type of operation and date.) <b>UNK</b>				113A. IF FEMALE, PREGNANT IN LAST YEAR? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK
	114. I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE DEATH OCCURRED AT THE HOUR, DATE, AND PLACE STATED FROM THE CAUSES STATED. Decedent Attended Since _____ Decedent Last Seen Alive _____ (A) mm/dd/ccyy (B) mm/dd/ccyy		115. SIGNATURE AND TITLE OF CERTIFIER <b>▶</b>		116. LICENSE NUMBER
	117. DATE mm/dd/ccyy		118. TYPE ATTENDING PHYSICIAN'S NAME, MAILING ADDRESS, ZIP CODE		
CORONER'S USE ONLY	119. I CERTIFY THAT IN MY OPINION DEATH OCCURRED AT THE HOUR, DATE, AND PLACE STATED FROM THE CAUSES STATED. MANNER OF DEATH <input type="checkbox"/> Natural <input type="checkbox"/> Accident <input type="checkbox"/> Homicide <input type="checkbox"/> Suicide <input checked="" type="checkbox"/> Pending Investigation <input type="checkbox"/> Could not be determined		120. INJURED AT WORK? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		121. INJURY DATE mm/dd/ccyy
	122. HOUR (24 Hours)				
	123. PLACE OF INJURY (e.g., home, construction site, wooded area, etc.)				
	124. DESCRIBE HOW INJURY OCCURRED (Events which resulted in injury)				
	125. LOCATION OF INJURY (Street and number, or location, and city, and zip)				
STATE REGISTRAR	126. SIGNATURE OF CORONER / DEPUTY CORONER <b>▶ PAUL HOWE SCHMIDT</b>		127. DATE mm/dd/ccyy <b>03/28/2012</b>		128. TYPE NAME, TITLE OF CORONER / DEPUTY CORONER <b>PAUL HOWE SCHMIDT, DEPUTY CORONER</b>
	A		B		C
D		E		Printed on: 06/04/2012 06:29 AM By SCHMIDT, PAUL (PSCHMIDT)	FAX AUTH.#
					CENSUS TRACT

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,	)	CASE NO. 2:11-cr-00337-JCM-GWF
Plaintiff,	)	
	)	ORDER ON GOVERNMENT'S MOTION TO
v.	)	DISMISS CRIMINAL INFORMATION
	)	WITHOUT PREJUDICE
DAVID AMESBURY,	)	
	)	
Defendant.	)	

**ORDER**

Upon motion of the Government, **IT IS HEREBY ORDERED** that the Criminal Information in criminal case number 2:11-cr-00337, as to defendant DAVID AMESBURY, be dismissed, without prejudice.

IT IS FURTHER ORDERED that any future hearing dates are vacated.

DATED June 6, 2012.

  
UNITED STATES DISTRICT COURT JUDGE